REMARKS

Claims 6-13 and 29-40 are pending in this application, with claims 6 and 31 being independent. Claims 6, 12, and 37 have been amended. This amendment is for improved clarity and is not limiting for any reason related to patentability. For at least the foregoing reasons, Applicants respectfully submit that the pending claims are in condition for allowance.

Claims 6-13 and 31-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 5,978,779 ("Stein") in view of alleged Applicants' Admitted Prior Art ("AAPA"). This rejection is traversed for at least the following reasons.

As a preliminary matter, Applicants thank Examiner Chencinski for the thoughtful courtesies and kind treatments afforded to Applicants' representative, Babak Akhlaghi, during the telephonic interview conducted on July 27, 2009. This response reflects the substance of the interview.

During the interview, the rejection of claim 6 in view of Stein and the alleged AAPA was discussed. In particular, Applicants' representative submitted that Stein and the alleged AAPA fail to describe or suggest an order/transaction processing section having access to the storage medium, for applying at least one of the rules to each respective received transaction based on source and level of the respective received transaction being within the specified scope of each applied rule, to determine whether or not to allow execution of the requested order or asset transfer contained in the respective received transaction, wherein:

upon determining to automatically approve execution of the requested order or asset transfer contained in a first received transaction, based on application of at least one of the rules to the request for the order or asset transfer in the first received transaction, the order/transaction

processing section forwards the order or the asset transfer in the request contained in the first received transaction to an execution process for fulfillment; and

upon the application of at least one of the rules to a second received transaction indicating a manual user approval is required for execution of the order or asset transfer, in the request contained in a second received transaction, the order/transaction processing section forwards the request for the order or asset transfer contained in the second received transaction to a user for possible manual approval for execution for fulfillment, as recited in claim 6.

In response, the Examiner asserted that this feature is "extremely obvious and well-known" and further asserted that he has no doubt that he can prove this upon proper traversal of the rejection. Applicants respectfully submit that the Amendment submitted on March 3, 2009, the content of which is incorporated herein by reference, properly traversed the rejection over Stein and the alleged AAPA. That response asserted that the quoted recitation of claim 6 patentably distinguishes over Stein and the alleged AAPA.

As pointed out during the interview, the rejection on obviousness ground cannot be sustained by mere conclusory statements. Attention was directed to ***In re Lee***, 277 F.3d at 1344-45, 61 USPQ2d at 1434 (Fed. Cir. 2002) (obviousness determination vacated for lack of evidentiary support for conclusory statements regarding obvious to select and combine); and ***In re Zurko***, 258 F.3d at 1386 (deficiencies of the cited references cannot be remedied by general allegations of "basic knowledge" or common sense). In response, Examiner Chencinski pointed to ***In re Kahn*** for alleged proposition the combination of evidence and rational based on practitioner's own knowledge would be sufficient to support rejection on obviousness ground. Applicants disagree. Even ***In re Kahn*** specifically states "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated

reasoning with some rational underpinning to support the legal conclusion of obviousness. . .this requirement is as much rooted in the Administrative Procedure Act, which ensures due process and nonarbitrary decisionmaking, as it is in § 103. ***In re Kahn***, 441 F.3d 977 (Fed. Cir. 2006).

Any rejection or holding of lack of patentability on obviousness grounds must clearly set forth the reasoning or "rational underpinning" that leads to the conclusion of obviousness. ***KSR Int'l Co. v. Teleflex Inc.***, 82 USPQ2d 1385, 1396, 127 S. Ct. 1727, 1741 (2007) (explaining that obviousness determinations must have some rational underpinning); and ***Innogenetics, N.V. v. Abbott Labs.***, 512 F.3d 1363, 1373 (Fed. Cir. 2008) citing ***In re Kahn***, 441 F.3d 977, 988 (Fed. Cir. 2006) (holding that an expert report was insufficient on issue of obviousness because it lacked an articulated reasoning with some rational underpinning to support the legal conclusion of obviousness). A general allegation that it would have been extremely obvious or well-known or that it is within the practitioner's own knowledge to modify Stein to produce Applicants' invention does not meet this standard for a reasonable explanation of the rationale leading to the conclusion of obviousness or the requirements for evidence to support such allegations in order to comply with the Administrative Procedure Act. For example, a desire to create a unified infrastructure for control and data transfer to a plurality of functional and task specific applications, as alleged in the rejection, would not suggest modification of Stein to determine whether or not to execute the order or asset transfer contained in the respective received transaction or to allow user setting of source-based scope of applicability of the rules, as in Applicants' independent claims.

During the interview, the Examiner also pointed to his personal knowledge of how the financial asset trading and management industry works based on his own experience, to provide support for the obviousness ground rejection. However, there is no evidence to support this

conclusion. That is, the Examiner simply fails to cite to any specific evidence in support of the allegation regarding an ordinary practitioner's personal knowledge of how the financial asset trading and management industry works. If the Examiner intends to continue to rely on general knowledge or considers now taking Official Notice on the point, Applicants submit that the Examiner must present supportive evidence as to exactly what prior knowledge of the financial industry is most relevant and might lead to the modification proposed in the rejection of the independent claims. The burden falls on the Office, and thus on the Examiner, to present clear factual evidence supporting all necessary elements of the prima facie case of obviousness. This includes the factual findings as to the knowledge in the art as well as the reason(s) or rationale for combining or modifying the art as proposed in the obviousness rejection.

Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. Attention is again directed to ***In re Lee***, 277 F.3d at 1344-45, 61 USPQ2d at 1434 (Fed. Cir. 2002) (obviousness determination vacated for lack of evidentiary support for conclusory statements regarding obvious to select and combine); and ***In re Zurko***, 258 F.3d at 1386 (deficiencies of the cited references cannot be remedied by general allegations of "basic knowledge" or common sense). General allegations can not substitute for the requisite evidence needed to support a prima facie case of obviousness. In this case, if the Examiner believes that the general knowledge in the art of rules engine computer systems for financial asset trading and management is more specific to the issues of Applicants' claims than Stein, then the burden rests squarely with the Examiner to articulate both the purported relevant knowledge and the basis for his position that such detailed knowledge was common prior to Applicants' invention.

If the knowledge was so widely available in the relevant computer system art at the time (e.g. prior to Applicants' April 7, 2000 priority date), then the Examiner should come forward

with truly relevant prior art evidence on the key points, to allow Applicants a fair opportunity to consider and respond to the relevant evidence and/or to make an appropriate record in the event that the case should go up on Appeal. Unless the general knowledge on point is capable of instant and unquestionable demonstration as being well-known (Manual of Patent Examination Procedure, Rev. 6, Sept. 2007 §2144.03A), reliance on general knowledge without documentary evidence is inappropriate.

Furthermore, Stein also does not support the Examiner's position that the financial asset trading and management industry prior to Applicants' date of invention generally knew of the above-recited features of claim 6. Instead, Stein deals with other types of data processing functions, such as access control and/or notification of needed documents or government filings. That is, Stein does not even deal with a rule-based determination of whether or not to execute the order contained in the respective received transaction.

Although, Stein applies rules to a variety of different system functions, Stein does not apply rules to transactions to determine whether or not to execute the order contained in the respective received transaction, and as a result, there is no subsequent forwarding of a transaction regarding an order or asset transfer for execution/fulfillment or forwarding for manual approval of a transaction based on the outcome of the rules application decision. For example, Stein determines what documents a client must execute for a particular transaction (column 6, lines 46-51), but Stein does not determine whether or not the transaction should be executed or sent for manual approval.

The Office Action seems to recognize this shortcoming of the Stein because it merely asserts that Stein's system and program storage medium cover the above-recited features of claim 6 without pointing to any specific sections of Stein for showing the above-recited features.

See e.g., Office Action at page 5. Applicants respectfully submit that in imposing a rejection under 35 U.S.C. §103, the Examiner is required to point to "page and line" wherein an applied reference is perceived to identically disclose each feature of a claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). Here, the Examiner has simply failed to do so and merely asserts that the claimed limitation is covered by Stein's system and program storage medium. The scope of "coverage" by Stein does not mean that Stein specifically discloses features that Applicants positively recite in the claims.

To distinguish Stein further, as pointed out during the interview, claim 6 requires that a rule has an assigned a level of scope of application selected from a plurality of preset levels, where each preset level of scope of application specifies a scope of source of transactions to which the rule should apply. Independent claim 6 also requires that the assigned level of scope of application for the rule is adjustable, from a first one of the preset levels to a second one of the preset levels, based on a user setting. It is respectfully submitted that neither Stein nor the allegedly obvious modification of Stein proposed in the rejection of claim 6 would satisfy the independent claim requirements regarding a rule having one of a plurality of levels of scope of application including transaction source, assigned to the rule from among a number of preset levels based on a user setting.

Stein discloses a system for integrating and structuring the relationships of a financial services provider (FSP) with its clients and with third parties (counterparties) with which the FSP transacts business. Each entity with which the FSP transacts business as well as each of the transacting entities internal to the FSP are assigned a unique, non-intelligent identifier (CCID), and a relationship is established between each identifier and at least one other entity likewise

identified. The system allows the FSP's users to seamlessly access information and transact business with all entities. Attention is directed to the abstract. The text of the Stein patent does mention a number of rules, and the rules are hierarchical (see e.g. 2, lines 36-42; and column 3, lines 29-39). However, Applicants maintain that Stein does not actually disclose that a transaction approval/disapproval rule is assigned a level of scope of applicability regarding transaction source, from a plurality of preset levels of scope of applicability, based on a user setting.

The Office Action suggests this feature is part of the AAPA. *See e.g.*, Office Action (stating AAPA includes features of claims 7-13). In particular, the Office Action asserts that due to the alleged lack or inadequate traversal of rejections of claims 7-13, Applicants have admitted that the features recited in claims 7-13 are part of AAPA. Applicants pointedly disagree. Applicants have repeatedly traversed the Examiner's allegations of "AAPA" and taking of Official Notice. For example, in the Amendment submitted on March 3, 2009, Applicants submitted two pages of arguments explaining that neither Stein nor the allegedly obvious modification of Stein proposed in the rejection of claim 6 would satisfy the independent claim requirements regarding a rule having one of a plurality of levels of scope of application including transaction source, assigned to the rule from among a number of preset levels based on a user setting. For the Examiner's ease of reference some of the relevant sections of the Amendment submitted on March 3, 2009 are reproduced below:

> "As a further distinction, both independent claims 6 and 30 require that a rule has an assigned a level of scope of application selected from a plurality of preset levels, where each preset level of scope of application specifies a scope of source of transactions to which the rule should apply. The intent is that a rule having the assigned level may be applied to all transactions from a source, where transaction level and/or source fall within the specified scope. In the example mentioned in Applicants' abstract, rules applicable to the account level are processed before rules applicable to the registered representative, office or firm. Each of the independent claims also requires that the assigned level of application for the rule is adjustable, from a first one of the preset levels of application to a second one of the preset levels of application, based on

> a user setting. For example, individual broker-dealer firms may each configure rules applicable to their own firms independently of rules applicable to any other firm serviced by the rules engine (see abstract of the present application). Execution of an order or asset transfer requested in a received transaction is dependent on the application of the rule(s) to the transaction. It is respectfully submitted that neither Stein nor the allegedly obvious modification of Stein proposed in the rejection of claim 6 would satisfy the independent claim requirements regarding a rule having one of a plurality of levels of scope of application including transaction source, assigned to the rule from among a number of preset levels based on a user setting. Contrary to the assertion in the most recent Action, Stein does not disclose such a user settable scope of applicability for the rules with regard to transaction source.
>
> Stein discloses a system for integrating and structuring the relationships of a financial services provider (FSP) with its clients and with third parties (counterparties) with which the FSP transacts business. Each entity with which the FSP transacts business as well as each of the transacting entities internal to the FSP are assigned a unique, non-intelligent identifier (CCID), and a relationship is established between each identifier and at least on other entity likewise identified. The system allows the FSP's users to seamlessly access information and transact business with all entities. Attention is directed to the abstract. The text of the Stein patent does mention a number of rules, and the rules are hierarchical (see e.g. 2, lines 36-42; and column 3, lines 29-39). However, Applicants maintain that Stein does not actually disclose that a transaction approval/disapproval rule is assigned a level of scope of applicability regarding transaction source, from a plurality of preset levels of scope of applicability, based on a user setting.

Amendment at page 16, line 9 to page 17, line 14. As such, Applicants clearly and adequately asserted that Stein or the alleged obvious modification of the Stein fails to describe or suggest a transaction approval/disapproval rule is assigned a level of scope of applicability regarding transaction source, from a plurality of preset levels of scope of applicability, based on a user setting. This necessarily indicates that Stein or the alleged obvious modification of Stein cannot show the features of claims 7-11 and 32-36, which further limit the scope of this feature. In addition to the distinction/errors noted above with regard to the basic rejection of claim 6, Applicants submitted that

> the allegations of prior art admissions in the latest Action, as well as the related earlier taking of Official Notice on corresponding points in the preceding Action, are inappropriate. Applicants have not conceded or admitted that the points raised with regard to claims 7-13 were all known in the art **prior** to Applicants' invention. The previous response did in fact challenge the taking of Official Notice, particularly with regard to issues relating to prior art knowledge of levels of scope of application to a specific account, a specific registered representative, a specific office, a specific firm, and a global level. In view of that challenge, the rationale expressed on pages 2 and 3 of the latest Detailed Action for converting Official Notice into prior art admissions is clearly in error. Applicants maintain that use of Official Notice is not an appropriate substitute for evidence in this case. If there is some evidence on so many relevant claim points, it is

> incumbent on the Examiner to come forward with the evidence, to allow Applicants a meaningful opportunity to respond and to create a complete record for purposes of Appeal if necessary (see e.g. ***Lee*** and ***Zurko*** cited above). The vague reliance on Official Notice and/or attempted conversion thereof to some kind of admission does not provide the requisite level of evidence to support a prima facie case of obviousness, with respect to any of Applicants' independent or dependent claims. Hence, the rejection over Stein and Official Notice also is improper and should be withdrawn.

Accordingly, Applicants have not conceded or admitted that the points raised with regard to claims 7-13 and 32-38 were all known in the art **prior** to Applicant's invention. Based on the forgoing, the rejection of claim 6 does not make the requisite showing under ***Graham*** and does not provide the rational underpinning for the conclusion of obviousness required by ***KSR***. Therefore, the rejection is improper and should be withdrawn.

Since the basic rejection over Stein and the alleged AAPA does not meet the requirements of showing obviousness of independent claim 6 and should be withdrawn for lack of evidence or reasonable underpinning, the rejection of dependent claims 7-13, 29, and 30 also does not lead to a conclusion that any of Applicants' pending claims are unpatentable over the art.

Independent claim 31 includes features similar to the above-recited features of independent claim 6. Therefore, for at least the reasons presented above with respect to independent claim 6, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 31, along with its dependent claims.

For the reasons outlined above, it is respectfully submitted that claims 6-13 and 29-40 all patentably distinguish over the various modifications/combinations of art applied in the latest Office Action and that the art rejections should be withdrawn. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case should now be ready to

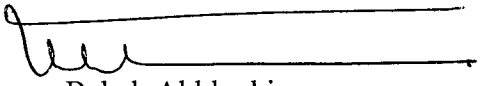
pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the April 9, 2009 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



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